In the Supreme Court of the United States

OCTOBER TERM, 1964

No. 883

INTERNATIONAL UNION, LOCAL 133, UAW-AFL-CIO

v.

THE FAFNIR BEARING COMPANY AND THE NATIONAL LABOR RELATIONS BOARD

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

MEMORANDUM FOR THE NATIONAL LABOR RELATIONS BOARD

On May 13, 1964, the Board, upon charges filed by petitioner Union, issued its Decision and Order finding that Fafnir Bearing Co. ("Fafnir") had violated Sections 8(a)(1) and 8(a)(5) of the National Labor Relations Act. The Company filed in the court below a petition to review the Board's order and the Board filed an answer and a cross-petition for enforcement. Petitioner, the successful charging party in the Board

proceeding, filed a motion for leave to intervene as a party in the court proceeding, which the Board and Fafnir opposed. On December 24, 1964, the court below denied the Union's motion to intervene (Pet. 11-16).[1]

The question presented is whether, when the Board sustains charges of unfair labor practices, the party who filed the charges before the Board is entitled to intervene in proceedings in the court of appeals seeking review or enforcement of the Board's order. The Board believes, for the reasons set forth in Judge Friendly's opinion below, that the charging party is not entitled to intervene in these circumstances. However, as petitioner correctly points out (Pet. 4-5), the question here is closely related to that in *International Union, United Automobile Workers* v. *Scofield*, No. 650, certiorari granted, January 18, 1965. There the question is whether, when the Board dismisses an unfair labor practice complaint and the charging party seeks review of the dismissal in the court of appeals, the party against whom the complaint was issued is entitled to intervene in the court proceeding. In deciding the question in *Scofield*, which the Board believes should be answered in the affirmative, it might be helpful for the Court also to have before it the related problem presented by the instant

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[1] The Court adopted the Board's suggestion that petitioner be allowed to file an *amicus* brief.

case. Accordingly, we do not oppose the grant of certiorari here.

Respectfully submitted,

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